



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
S&L VITAMINS, INC.,

Plaintiff,

-against-

AUSTRALIAN GOLD, INC.,

Defendant.

VERDICT FORM

05-CV-1217(JS) (MLO)

-----X

TORTIOUS INTERFERENCE WITH CONTRACT

1. Were there contracts between Australian Gold and its distributors or subdistributors that prohibited its distributors or subdistributors from selling Australian Gold Products to anyone other than a retail tanning salon?

Yes ☒

No ☐

If your answer to this question is No, proceed to question 7.
If your answer to this question is Yes, proceed to the next question.

2. Did S&L know of the existence of the contracts between Australian Gold and its distributors or subdistributors referred to in (1) above?

Yes ☒

No ☐

If your answer to this question is No, proceed to question 7.
If your answer to this question is Yes, proceed to the next question.

3. Did Australian Gold's distributors or subdistributors breach their contracts with Australian Gold by selling Australian Gold Products to S&L or any person acting on behalf of S&L?

Yes ☒

No ☐

If your answer to this question is No, proceed to question 7.
If your answer to this question is Yes, proceed to the next question.

4. Did S&L perform an action that was a substantial factor in inducing Australian Gold's distributors or subdistributors to breach their contracts with Australian Gold?

Yes ☒

No ☐

If your answer to this question is No, proceed to question 7.
If your answer to this question is Yes, proceed to the next question.

5. Did S&L act with the intent to cause Australian Gold's distributors or subdistributors to breach their contracts?

Yes ☒

No ☐

If your answer to this question is No, proceed to question 7.
If your answer to this question is Yes, proceed to the next question.

6. State the amount of Australian Gold's damages, if any, sustained as a result of S&L's conduct.

Actual Damages: \$ 3,000,000

Three million

TRADEMARK INFRINGEMENT

7. Did S&L use Australian Gold's trademarks, set forth in the list attached to this verdict sheet as Exhibit A, in commerce in connection with the sale, offering for sale, distribution, or advertising of goods?

Answer "Yes" or "No" on Exhibit A as to each trademark.

If your answer to this question is No, proceed no further and report to the Court. If your answer to this question is Yes, proceed to the next question.

8. Is S&L's use of Defendant's Australian Gold's trademarks likely to cause confusion, mistake, or to deceive consumers as to (a) the affiliation, connection or association of S&L with Australian Gold; or (b) Australian Gold's approval of S&L's commercial activities, relating to the sale of Australian Gold Products on the internet?

Answer "Yes" or "No" on Exhibit A as to each trademark.

If your answer to this question is No, proceed no further and report to the Court. If your answer to this question is Yes, proceed to the next question.

9. State the amount of the AG's damages, if any, sustained as a result of S&L's conduct as to each trademark on Exhibit A you find to have been infringed in question (13).

Actual Damages: \$3,000,000
Three million

EXHIBIT A

<u>Product</u>	<u>Question 7: Did S&L use Australian Gold's trademarks, set forth in the list attached to this verdict sheet as Exhibit A, in commerce in connection with the sale, offering for, sale, distribution, or advertising of goods?</u>	<u>Question 8: Is S&L's use of Defendant's Australian Gold's trademarks likely to cause confusion, mistake, or to deceive consumers as to (a) the affiliation, connection or association of S&L with Australian Gold; or (b) Australian Gold's approval of S&L's commercial activities, relating to the sale of Australian Gold Products on the internet?</u>
Australian Gold	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Swedish Beauty	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Carribean Gold	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Amaretto	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Beach in a Bottle	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Blazin'	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Bronzing Fire Glaze	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Browning Fury	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Chocolate Indulgence	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Chocolate Temptation	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Dangerously Dark	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Dark Fire	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Fast Action	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Fast Brown	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Frosted Hemp	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Golden Bronzing Glaze	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Golden Glaze	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Golden Tingling Glaze	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Hot Amaretto	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Hot!	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Iced Crème	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Intimidation	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

EXHIBIT A

<u>Product</u>	<u>Question 7: Did S&L use Australian Gold's trademarks, set forth in the list attached to this verdict sheet as Exhibit A, in commerce in connection with the sale, offering for sale, distribution, or advertising of goods?</u>	<u>Question 8: Is S&L's use of Defendant's Australian Gold's trademarks likely to cause confusion, mistake, or to deceive consumers as to (a) the affiliation, connection or association of S&L with Australian Gold; or (b) Australian Gold's approval of S&L's commercial activities, relating to the sale of Australian Gold Products on the internet?</u>
Safire	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Sinful	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Smokin'	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Smooth Softie	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Swedish Bronzing Crème	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Swedish Intensifier	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Thrust	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Wild	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
You Wish!	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Mareen Fitzgerald 1/21/09